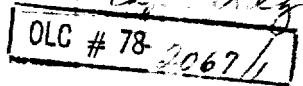


19 JUN 1978

OGC 78-3976



MEMORANDUM FOR: Director of Central Intelligence

FROM : Anthony A. Lapham
General Counsel

SUBJECT : H.R. 7308 (House Version of Domestic Wiretap Legislation)

REFERENCES : A. H.R. 7308 (As Amended by HPSCI)
B. Your Prior Prepared Statements on the Wiretap Bill Before the Senate and House Committees

1. Action Requested: That you sign the attached letter to Representative Kastenmeier, Chairman of a House Judiciary subcommittee.*

2. Background: According to the Attorney General's staff, the Administration game plan for House consideration of the domestic wiretap legislation threatens to become unraveled. As you are aware, the Senate approved S.1566, the companion bill to H.R. 7308, in April, and H.R. 7308 was recently reported favorably by HPSCI. Originally, it was hoped that Kastenmeier would recommend that the Judiciary Committee not take up the bill, clearing the way for a June vote on the House floor, and Kastenmeier did forward such a recommendation to Representative Rodino, the Chairman of the full Committee.

3. It is apparent that if the Judiciary Committee holds extensive hearings on H.R. 7308, however, chances for passage this session will be slim. Kastenmeier's letter evidently did not reflect a consensus of the subcommittee, and it now appears that the subcommittee will hold at least one day of hearings--on 22 June. The Administration will have only one witness--the Attorney General--and the Department of Justice is anxious to head off demands for testimony by community officials, believing that the circumstances would only provide potential footholds for those who wish to kill the legislation. The Department would like to see the subcommittee decide, immediately following the Attorney General's testimony or shortly thereafter, not to mark-up the bill, thus allowing it to go forward. For these reasons, the Department staff has requested that you send a letter to Kastenmeier indicating your support for the House bill along the lines of your testimony before HPSCI. Apparently, Admiral Inman is being asked to send a similar letter to Kastenmeier.

*Subcommittee on Courts, Civil Liberties, and the Administration of Justice. Majority: (5 D.) Representatives Kastenmeier, Danielson, Drinan, Santini and Ertel. Minority: (2 R.) Representatives Railsback and Butler.

4. H.R. 7308 as originally introduced was supported (and, in fact, sponsored) by the Administration, but several amendments were adopted by HPSCI. From the perspective of the community, several of these amendments, including provisions dealing with security procedures and training, were distinct improvements. Moreover, the bill was amended so as to exempt foreign embassies and missions from the warrant requirement. Several amendments, however, such as one which would criminalize failure to minimize properly and another which would make it easier for defendants to access sensitive information in criminal prosecutions brought against them, are not desirable, and the Administration objected to them. While these provisions are troublesome, the net gain was favorable to the Administration and clearly insufficient to withdraw support from the bill in its totality. Moreover, it is hoped that the Administration will be able to have objectionable provisions deleted when the legislation is in conference.

5. Recommendation: We recommend that you sign the attached letter to Kastenmeier. It is consistent with your previous testimony on this legislation and could very well spare you an appearance before the Judiciary Committee.

[Redacted Signature]

Anthony A. Lapham

Attachment

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